7 FAM 1100 APPENDIX L
RETENTION PROVISIONS

(CT:CON-348; 12-07-2010)
(Office of Origin: CA/OCS/PRI)

7 FAM 1110 APPENDIX L INTRODUCTION

(CT:CON-348; 12-07-2010)

a. Retention provisions of U.S. citizenship law are conditions subsequent to acquisition of U.S. citizenship which may result in cessation of citizenship.

NOTE: This differs from expatriation provisions of U.S. law (8 U.S.C. 1481) explained in 7 FAM 1200.

b. The retention provisions were put in place generally to reduce divided loyalties and ensure that foreign-born citizens with only one citizen parent would absorb American influences and values and regard themselves as Americans after having spent several years in the United States as teenagers or young adults. 7 FAM 1100 Appendix L Exhibit A provides a chart summarizing the former retention provisions. The retention provisions of the INA were repealed by Public Law 95-432 on October 10, 1978. Persons born on or after October 10, 1952, who acquired U.S. citizenship through birth abroad to one U.S. citizen parent, are **not required** to be physically present in the United States to retain U.S. citizenship. The repeal was **not retroactive** and did not restore citizenship to those whose citizenship had already ceased by operation of the repealed law.

c. Persons whose citizenship ceased as a result of the operation of former section 301(b) INA were provided a means of regaining citizenship on March 1, 1995 by an amendment to INA 324 (8 U.S.C. 1435) by the taking of an oath of allegiance. The text of the oath is provided at 7 FAM 1100 Appendix L Exhibit B.

d. The role of consular officers at posts abroad and passport specialists at domestic passport agencies and centers with regard to retention provisions is limited to:

(1) Administering the oath of allegiance to persons who lost U.S. citizenship under the former retention provisions (see 7 FAM 1100 Appendix L Exhibit B); and

(2) Subsequently ensuring removal of the former retention provision

related lookout from the Consular Lookout and Support System (CLASS) via the Passport Lookout Tracking System (PLOTS) by authorized persons. See 7 FAM 1330 and 7 FAM 1300 Appendix B. CLASS code entries related to the former retention provisions include:

Reason Code Q (Questionable Claim), SubCode 103;
Reason Code I (Insufficient evidence of citizenship), SubCode 63; and
Reason Code L (Loss of Nationality), SubCode free text 301(b).

7 FAM 1120 APPENDIX L RESTORATION OF CITIZENSHIP UNDER SECTION INA 324(D)(1)

(CT:CON-348; 12-07-2010)

a. INA 324(d) (8 U.S.C. 1435(d)), effective March 1, 1995, added by section 103 of the Immigration and Nationality Technical Corrections Act of 1994, Public Law 103-416, (108 Statutes at Large 4305) provides for the restoration of U.S. citizenship to those persons who did not fulfill the physical presence retention requirements of former section 301(b). The former INA section 301(c) made the provisions of 301(b) applicable to persons born subsequent to May 24, 1934, who had not complied with the retention provisions of sections 201(g) and 201(h) of the Nationality Act of 1940. INA 324(d)(1) (8 U.S.C. 1435(d)(1)) allows a person to regain U.S. citizenship upon application and upon the taking of a prescribed oath of allegiance (see 7 FAM 1100 Appendix L Exhibit B).

b. Not Retroactive: INA 324(d) (8 U.S.C. 1435(d)) does not restore citizenship retroactively to those who take the oath. Therefore, a person whose citizenship is restored under INA 324(d) cannot use that restoration as a basis for the transmission of U.S. citizenship to any of his or her children born abroad during the period between the cessation and restoration of U.S. citizenship.

c. Eligible persons are persons born abroad between May 24, 1934, and October 10, 1952 to one U.S. citizen parent and one alien parent who:

   (1) Ceased to be U.S. citizens for failure to satisfy retention requirements and received an official determination to that effect by the Department; or

   (2) Did not fulfill the retention requirements and are making a first time claim for U.S. citizenship; and

   (3) Do not advocate totalitarian forms of government per section INA 313. (This is determined when they complete the oath (7 FAM

1100 Appendix L Exhibit B).)

d. The following procedures must be followed for eligible persons applying for restoration of U.S. citizenship under section INA 324(d)(1):

(1) The applicant must execute a passport application;

(2) The applicant must also complete Form DS-4079, Questionnaire Information for Determining Possible Loss of U.S. Citizenship;

(3) The consular officer must determine whether the applicant was subject to and failed to comply with applicable retention provisions under former section 301(b) INA;

(4) The consular officer must determine if the applicant committed any potentially expatriating act under INA 349 (8 U.S.C. 1481). If a determination is made that the applicant committed such an action, suspend the passport application for 90 days and refer the potential loss of nationality case to CA/OCS/PRI (ASKPRI@state.gov) for determination. (See 7 FAM 1200.) The potentially expatriating act would have had to have been committed before the failure to retain under 301(b);

(5) If a determination is made that the person failed to comply with former Section 301(b) INA, the consular officer must prepare a statement on letterhead using the format and wording shown in 7 FAM 1100 Appendix L Exhibit B;

NOTE OBJECTION TO LANGUAGE OF THE OATH:

If the applicant objects to taking an oath, you may substitute the word affirm/affirmation as appropriate.

USCIS has advised the Department that it is also permissible to delete the portion of the oath regarding bearing arms on behalf of the United States, if requested.

(6) The applicant must fill out and sign the top portion of the statement. Upon signature, the consular officer, passport specialist, or any other person duly authorized to take an oath must administer the oath of allegiance. The consular officer or passport specialist must then sign and date the statement. It is not necessary to include a consular seal. Provide the applicant with a copy of the completed oath at no charge;

(7) The consular officer or passport specialist must conduct a name clearance in the Consular Lookout and Support System (CLASS). For processing 324(d)(1) cases, when there is a CLASS hold (L-F Lookout) for persons born abroad between May 24, 1934, and October 10, 1952, the Department will, without prior review of the file, send back a message stating "LOSS OF NATIONALITY: OK TO

ISSUE AFTER 324(d) OATH IS TAKEN. Upon receipt of this message, you may approve the documentation for the 324(d)(1) applicant. The consular officer or passport specialist must then follow the steps to remove the retention provision lookout. Remove the LOOKOUT if applicable; and

(a) For posts abroad, this can be done by your desk officer in the Office of American Citizen Services and Crisis Management (CA/OCS/ACS); and

(b) Domestic passport agencies and centers may remove the CLASS hold once the oath has been administered.

(8) Consular officers and passport specialists must submit passport applications, including all supporting documentation such as the oath of allegiance for record keeping in accordance with established procedures outlined in 7 FAM 1300. In submitting the applications to the Department, place the 324(d)(1) passport applications on top of, or separate from the non-324(d)(1) applications, and mark accordingly.

7 FAM 1130 APPENDIX L HISTORICAL CONTEXT OF THE RETENTION PROVISIONS

(CT:CON-348; 12-07-2010)

a. There were no physical presence requirements for retention of U.S. citizenship for persons born abroad to a U.S. citizen parent before May 24, 1934.

> **Note:**
>
> On April 13, 1906, the Senate passed a joint resolution providing for a commission to examine the subjects of citizenship of the United States, expatriation and protection abroad. The Commission concluded that legislation was required to settle some of questions addressed. (House of Representatives Document 326, 59th Congress, 2nd Session, Letter from the Secretary of State Submitting Report on the Subject of Citizenship, Expatriation and Protection Abroad, February 8, 1907; James B. Scott, David J. Hill & Gaillard Hunt Report; Hackworth, Digest of International Law, Vol III, 279-, Loss of Right of Protection 286 (1942)). The resulting legislation was the Act of March 2, 1907 34 Statutes at Large 1228.

b. **The Act of March 2, 1907 – Residence and Protection:** In 1907 Congress imposed requirements on U.S. citizens residing abroad who acquired citizenship under Section 1993 of the Revised Statutes (RS) of 1874 and who wished to avail themselves of the protection of the United

States Government. A U.S. citizen who did not comply with this law did not lose U.S. citizenship but lost the right to diplomatic protection. Section 6 of the Act of March 2, 1907, (34 Statutes at Large 1228) stated that:

> "All children born outside the limits of the United States who are citizens thereof in accordance with the provisions of [Section 1993 R.S.] and who continue to reside outside the United States shall, in order to receive the protection of this Government, be required upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States, and shall be further required to take an oath of allegiance to the United States upon attaining their majority."

By 1910, the Department of State informed U.S. embassies and consulates "after a careful consideration of the principles underlying this whole question of the protection of American citizens abroad, the department has come to the conclusion that in the case of a native American residing in a foreign land, whether civilized, semi-barbarous, a definite intention to resume residence in this country should not be made an absolute prerequisite to the privilege of receiving a passport or certificate of registration, or if necessary protection by this Government." (Circular Instruction July 26, 1910).

c. **The Act of May 24, 1934 and Retention Provisions:**

(1) When it amended Section 1993 RS (Act of May 24, 1934 (48 Statutes at Large 797)) to give women the right to transmit U.S. citizenship to their foreign-born children, Congress was concerned that a child with one citizen and one alien parent might have divided loyalties, particularly if the father was an alien through whom the child had acquired foreign nationality;

(2) To reduce conflicting ties of allegiance and to ensure that foreign-born children would regard themselves as Americans, Section 1993 R.S., as amended, required such children to reside in the United States for at least 5 years before reaching age 18 and to take an oath of allegiance to the United States within 6 months after reaching age 21 or forfeit their citizenship;

(3) The retention requirements did not apply if both parents were U.S. citizens or if the child had been born out of wedlock to a U.S. citizen woman. In such cases, it was felt that foreign influences and ties would be less likely to occur and

(4) No one ceased to be a citizen because of the retention requirements of Section 1993 R.S., as amended. This was because the Nationality Act of 1940 (NA) went into effect long before any child

born on or after May 24, 1934 could have turned 21. Section 201(h) NA applied the requirements of section 201(g) NA for retaining citizenship to persons born abroad on or after May 24, 1934.

d. **The Nationality Act of 1940 and Retention Provisions:** In the Nationality Act of 1940 (NA) (54 Statutes at Large 1138) the residence requirements of section 201 NA were less restrictive than the ones they replaced, and the requirement of an oath of allegiance at age 21 was eliminated.

(1) To retain U.S. citizenship acquired under section 201(g) NA, a person had to reside in the United States or its outlying possessions for periods totaling 5 years between ages 13 and 21 unless they were exempted from having to do so by the second paragraph of section 201(g) NA;

(a) The law stated that persons forfeited U.S. citizenship if:

- They failed to enter the United States by age 16
- If, after entering the United States before that age, they abandoned their U.S. residence and remained abroad until it was no longer possible for them to complete a total of 5 years residence between ages 13 and 21

(b) The same provisions and exemptions applied to persons in whose cases section 201(g) NA was made applicable by the first paragraph of section 205 NA.

(2) Section 201(h) NA applied the retention requirements of section 201(g) NA to persons who had acquired U.S. citizenship under Section 1993, R.S., as amended by the Act of May 24, 1934, and had been born to one citizen and one alien parent. Similar requirements applied to persons who acquired citizenship under section 201(i) NA, but no exemptions were provided for those persons.

(3) Exemptions: The retention requirements of section 201(g) NA did not apply if the person's citizen parent was, at the time of the child's birth, serving in the U.S. Armed Forces or engaged in certain specified employment abroad. In 1981, the Department determined that the child of an employee of a company founded by an association of American corporations to carry out a single business venture abroad for joint profit was exempt from the retention requirements of section 201(g) NA because Such joint ventures are not separate legal entities for all purposes; and all of the contracting organizations had their principal offices in the United States, even though the sole office and the place of business of the joint venture were in a foreign country.

(4) Special Provisions for Veterans: All children who became U.S. citizens under section 201(i) NA were subject to that section's requirements for retaining U.S. citizenship, but, because in 1952 none of them were old enough to begin to comply with section 201(i)'s retention requirements, they all became subject to those of Section 301(b) INA.

(5) **Repeal of Section 201 NA and On-Going Cases**: By the time the Nationality Act of 1940 was repealed on December 24, 1952, some persons subject to the retention requirements of section 201(g) NA, as made applicable by section 201(h), had reached the age of possible compliance with those requirements.

(a) Section 301(c) INA, as originally enacted, stated that section 301(b) INA applied to persons born abroad after May 24, 1934.

(b) Section 301(c) INA also indicated that the substitution of the retention provisions of section 301(b) INA for those of section 201(g) NA on December 24, 1952, did not affect the citizenship of persons who already had complied with section 201(g) NA.

(c) Persons under age 16 who had been born subject to the retention requirements of section 201(g) or (i) NA, and had not taken up residence in the United States, but who wished to keep their U.S. citizenship had no choice but to comply with section 301(b) INA.

(d) Persons who had begun compliance with section 201(g)'s requirements could complete 5 years residence in the United States before reaching age 21 and retain their U.S. citizenship. However, if they failed to do so, they could opt to comply with the new retention requirements.

e. **Immigration and Nationality Act of 1952 Retention Provisions:**

(1) To keep their citizenship, persons who acquired U.S. citizenship under section 301(a)(7) INA were required to be physically present in the United States continuously for 5 years between ages 14 and 28.

(2) In an effort to make certain that the person would actually be in the United States for a substantial period of time, the INA required continuous physical presence rather than the period of residence specified in the Nationality Act of 1940 and section 1993 of the Revised Statutes, as amended.

(3) The text of section 301(b) INA, as originally enacted, stated that: "Any person who is a national and citizen of the United States at

birth under paragraph (7) of subsection (a), shall lose his nationality and citizenship unless he shall come to the United States prior to attaining the age of twenty-three years and shall immediately following any such coming be continuously physically present in the United State(s) at least five years: Provided, That such physical presence follows the attainment of the age of fourteen years and precedes the age of twenty-eight years. Absences totaling in the aggregate less than twelve months did not serve to break one's continuous physical presence." (Section 16 of the Action of September 11, 1957.)

(4) Section 301(c) applied the requirements of section 301(b) to persons born between May 24, 1934, and December 24, 1952, who were subject to, but had not complied with, and did not later comply with, the retention requirements of section 201(g) or (h) NA.

f. **1972 Amendment to INA 301(b) Retention Provisions:** Public Law 92-584 amended section 301(b) INA effective October 27, 1972, to read as follows (86 Statutes at Large 1289): "Any person who is a national and citizen of the United States under paragraph (7) of subsection (a) shall lose his nationality and citizenship unless (1) he shall come to the United States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or, if (2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years. In the administration of this subsection absences from the United States of less than sixty days in the aggregate during the period for which continuous physical presence in the United States is required shall not break the continuity of such physical presence."

g. **1978 Repeal of INA 301 (b) Prospectively:** On October 10, 1978 the retention provisions of the Immigration and Nationality Act were repealed by Public Law 95-432.

(1) As a result, persons born on or after October 10, 1952, who acquired U.S. citizenship through birth abroad to one U.S. citizen parent are not required to be physically present in the United States to retain U.S. citizenship.

(2) Because the repeal was prospective in application, it did not benefit persons born on or after May 24, 1934, and before October 10, 1952.

(3) The intent of Congress in repealing Section 301(b) is made clear in The Report of the House Judiciary Committee (House Report 95-1493) which stated that Congress desired to repeal the section

prospectively in order not to provide a basis to restore citizenship to those who lost their citizenship prior to enactment of the bill.

h. As the U.S. Supreme Court summarized in Rogers v. Bellei (see 7 FAM 1140 Appendix L), "the statutory pattern, therefore, developed and expanded from (a) one, established in 1790 and enduring through the Revised Statutes and until 1934, where citizenship was specifically denied to the child born abroad of a father who never resided in the United States; to (b), in 1907, a governmental protection condition for the child born of an American citizen father and residing abroad, dependent upon a declaration of intent and the oath of allegiance at majority; to (c), in 1934, a condition, for the child born abroad of one United States citizen parent and one alien parent, of five years' continuous residence in the United States before age 18 and the oath of allegiance within six months after majority; to (d), in 1940, a condition, for that child, of five years' residence here, not necessarily continuous, between ages 13 and 21; to (e), in 1952, a condition, for that child, of five years' continuous residence here, with allowance, between ages 14 and 28. Thus, in summary, it may be said fairly that, for the most part, each successive statute, as applied to a foreign-born child of one United States citizen parent, moved in a direction of leniency for the child."

7 FAM 1140 APPENDIX L DEFENSES OF UNAWARENESS, IMPOSSIBILITY OF PERFORMANCE, AND MISINFORMATION IN RETENTION CONTEXT

(CT:CON-348; 12-07-2010)

a. The defenses of unawareness, impossibility of performance and misinformation, explained in 7 FAM 1100 Appendix K, require more complex analysis to develop and should not normally be pursued where retention of citizenship is the core issue.

b. The consular officer is not required to discuss the option of employing one of the defenses unless the applicant provides information in an interview or in documentation that clearly suggests that such a defense may be viable.

c. Moreover, when the consular officer has determined that an applicant may come within the scope of 7 FAM 1100 Appendix K, after the provisions are explained by the consular officer, the applicant may elect to waive the 7 FAM 1100 Appendix K defense option and choose to take INA 324(d) oath. In fact, there will likely be very limited circumstances when an applicant would want to establish a defense rather than take the

oath, the main one being the ability to transmit citizenship to children born during the time citizenship had ceased. If the 7 FAM 1100 Appendix K defense is pursued, the consular officer must reflect this in the consular officer opinion accompanying the application. The consular officer must notify the applicant in writing of any Department action regarding the 7 FAM 1100 Appendix K defenses and of the INA 334(d) alternative in the event the Appendix K defense is not upheld by the Department.

d. Once the INA 324(d) oath is taken, the Department will assume the applicant was either not eligible or waived any right to employ a defense, unless otherwise demonstrated by the applicant.

7 FAM 1150 APPENDIX L THE CONSTITUTIONALITY OF RETENTION PROVISIONS

(CT:CON-348; 12-07-2010)

a. In Rogers v. Bellei, 401 U.S. 815 (1971), the U.S. Supreme Court upheld the constitutionality of section 301(b) INA and held that the case of a person who had ceased to be a U.S. citizen by failing to comply with section 301(b) was distinguishable from cases involving loss of nationality by performance of an act expatriating by statute and in which the issue of intent was pertinent.

b. **14th Amendment Definition:**

(1) Persons who acquire U.S. citizenship by birth abroad do not come within the 14th Amendment's definition of citizenship.

(a) On May 29, 1967, in Afroyim v. Rusk, the Supreme Court held that: the Fourteenth Amendment was designed to, and does, protect every citizen of this nation against a congressional, forcible destruction of his citizenship, whatever his creed, color, or race;

(b) In Rogers v. Bellei, however, the Court held that the constitutional definition of citizenship in the 14th Amendment does not include persons who acquired citizenship by birth abroad to a citizen parent. This definition was one restricted to the combination of three factors, each and all significant: birth in the United States, naturalization in the United States, and subjection to the jurisdiction of the United States;

(c) The Court also stated that: "Our National Legislature indulged the foreign-born child with presumptive citizenship, subject to the satisfaction of a reasonable residence

requirement, rather than to deny him citizenship, outright, as concededly it had the power to do"; and

(d) The Court held that: "Congress has the power to impose the condition subsequent of residence in the United States (on persons who do) not come within the Fourteenth Amendment's definition of citizens as those "born or naturalized in the United States," and its imposition is not unreasonable, arbitrary, or unlawful."

(2) Because retention requirements are a condition subsequent to citizenship acquisition, 301(b) subjects who failed to comply are considered to have ceased to be U.S. citizens rather than to have lost U.S. citizenship as per INA 349. Intent in 301(b) cases is immaterial. Persons who did not fulfill the 301(b) requirements ceased to be U.S. citizens regardless of their desire to keep their citizenship. 301(b) cases were not appealable to the former Board of Appellate Review but could be administratively reviewed in CA/OCS. The current procedure for review of such cases is for the applicant to direct a written inquiry to the Director, Office of Policy Review and Inter-Agency Liaison, Overseas Citizens Services, Bureau of Consular Affairs, SA-29 4th Floor, Department of State, Washington, D.C. 20520 or ASKPRI@state.gov.

7 FAM 1160 APPENDIX L PERSONS SUBJECT TO RETENTION PROVISIONS WHO APPLY FOR VISAS

(CT:CON-348; 12-07-2010)

a. **Visa Application May Reveal Claim to U.S. Citizenship**: Persons who are unaware of a claim to U.S. citizenship, who were misinformed about their status, or who were prevented from complying with the retention provisions may come to the post's attention when they apply for visas. 22 CFR 40.2(a) states: "A national of the United States shall not be issued a visa or other documentation as an alien for entry into the United States." Guidance on handling a visa applicant who may be or may have been a U.S. citizen follows.

b. **Persons Applying for Non Immigrant Visas (NIVs)**:

(1) When a possible claim to U.S. citizenship is discovered in the course of an application for a nonimmigrant visa, the applicant should be informed of the possible claim and referred to the post citizenship unit.

(2) Visa applicants with potential claims to citizenship who are unable

or unwilling to delay travel until the citizenship claim is proven and the 301(b) issue resolved, may be considered an alien and may proceed with the nonimmigrant visa application. Consular officers should advise the applicant to pursue the possible claim to citizenship upon their return from the United States.

(3) If the citizenship unit is satisfied, after reviewing the questionnaire and any other information obtained, that the applicant did not acquire U.S. citizenship, it must promptly refer the applicant (or applicant's file) back to the post's visa unit for continued processing of the visa application.

(4) 22 CFR 40.2(a) states: "A former national of the United States who seeks to enter the United States must comply with the documentary requirements applicable to aliens under the INA."

(a) Therefore, the application of a person who lost citizenship through failure to comply with the retention provisions should be treated as that of an alien unless and until citizenship is restored through the various means discussed in this chapter (for 301(b) cases). Applications of such persons who have immediate travel plans or who do not wish their status reviewed should be treated as those of aliens.

(b) A person whose U.S. citizenship was held lost through failure to comply with the retention provisions can be documented as a citizen most expeditiously by taking the 324(d)(1) INA oath of allegiance.

(5) If the consular officer determines that the readily available evidence supports a finding that the visa applicant acquired citizenship at birth and satisfied the retention requirements, but there is not enough time for the person to gather certified copies of the documents needed to prove the claim, the applicant may be issued an emergency passport provided the applicant is not the subject of a Certificate of Loss of Nationality and the applicant’s name has cleared the passport lookout system. See 7 FAM 1360 for the description of the procedures relating to the issuance of emergency passports.

c. **Persons Applying for IVs Who May Have a Claim to U.S. Citizenship**: The citizenship status of applicants for immigrant visas (IVs) must be resolved in every case without exception. Whenever an applicant for an immigrant visa appears to have a claim to U.S. citizenship, the visa application must be delayed pending determination of citizenship status. If the person appears to have a claim to citizenship, the case should be processed as outlined in 7 FAM 1300 and 7 FAM 1100. Meanwhile, action on the visa application must be suspended.

7 FAM 1170 APPENDIX L THROUGH 7 FAM 1190 APPENDIX L UNASSIGNED

7 FAM 1100 APPENDIX L EXHIBIT A SUMMARY OF RETENTION PROVISIONS

(CT:CON-348; 12-07-2010)

Date of Birth	Transmission Requirements	Retention Requirement	Statute
Before noon EST 5/24/1934	U.S. Citizen Father and U.S. Citizen Mother++ Could Transmit;	None	Section 1993 Revised Statutes (RS) (48 Stat. 797); 301 (h) INA
Noon EST 5/24/1934 and prior to 1/13/1941	Either U.S. Citizen Father or Mother Could Transmit	5 years residence between ages 13-21 if begun before 12/24/1952; or 2 years continuous physical presence between ages 14 and 28*; or 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/1972 **; or None if parent employed certain occupations None if alien parent naturalized	Section 201(g) and 201(h) Nationality Act (NA) Former Section 301(b) and 301(c) INA Former Section 301(b) and 301(d) INA

		and child began to reside permanently in U.S. while under age 18	Section 201(g) NA Former Section 301(b) INA
1/13/1941 and prior to 12/24/1952	Citizen parent resided in U.S. or possession 10 years prior to child's birth, five of which after the age of 16	2 years continuous physical presence between age 14 and 28*; or 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/1972**; None if parent employed in certain occupations None if child born on or after 10/10/1952 None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	201(g) NA Former Section 301(b) INA and former Section 301(d) INA; Public Law 95-432 Former Section 301(b) INA

	Citizen parent in U.S. Military 12/7/1941-12/31/1946 and resided in U.S. or possession 10 years prior to child's birth, 5 of which after age 12	2 years continuous physical presence between ages 14 and 28*; or 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/1972**; None if child born on or after 10/10/1952; None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	Section 201(i) NA
	Citizen parent in U.S. Military 1/1/1947 – 12/24/1952 and physically present in U.S. or possession 10 years prior to child's birth, five or which after age 14, and who did not qualify under either provision above	2 years continuous physical presence between ages of 14 and 28*; or 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/1972 **; or None if child born on or after 10/10/1952; or None if alien parent naturalized	Section 301(a)(7) INA now INA 301(g) Former Section 301(b) INA Former Section 301(b) and 301(d) INA

		and child began to reside permanently in U.S. while under age 18	Public Law 95-432 Former Section 301(b) INA
12/24/1952 and prior to 11/14/1986	Citizen parent physically present in U.S. or possession 10 years prior to child's birth, five of which are after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included	None	Section 301(a)(7) INA, now INA 301(g)
On or after 11/14/1986	Citizen parent physically present in U.S. or possession 5 years prior to child's birth, two of which are after age 14	None	INA 301(g); Public Law 99-653; Public Law 100-525

* Absences of less than 60 days in aggregate during 2 year period does not break continuity.

** Absences of less than one year in aggregate during 5 year period do not break continuity.

++ Immigration and Nationality Technical Corrections Act of 1994, INA 301(h), Public Law 103-416

+++ The retention requirements do not apply to persons who acquired U.S. citizenship under Section 1993, R.S., as amended, through birth abroad out of wedlock to a U.S. citizen woman (7 I. & N. 523). The Department and the former Immigration and Naturalization Service (INS) both hold that the legitimation after January 13, 1941, of a child who acquired U.S. citizenship through birth abroad out of wedlock to an American mother between May 24, 1934, and January 13, 1941, does not affect in any way the citizenship status that the child acquired at birth. Even if the child is legitimated by an alien father, the retention requirements do not apply.

7 FAM 1100 APPENDIX L EXHIBIT B OATH OF ALLEGIANCE TO THE UNITED STATES UNDER INA 324

(CT:CON-348; 12-07-2010)

OATH OF ALLEGIANCE TO THE UNITED STATES
UNDER THE IMMIGRATION AND NATIONALITY ACT

This statement is for use under Section 324(d)(1) of the Immigration and Nationality Act (INA) by a person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under Section 301(b) INA.

_____

Name of Applicant (Please Print Name in Full)

_____

Date of Birth

_____

Place of Birth

I solemnly swear that I have performed no voluntary act which would cause me to be within any of the provisions of Section 313 of the Immigration and Nationality Act relating to persons opposed to Government of Law or who favor totalitarian forms of Government. I hereby apply to take the oath of allegiance to the United States as prescribed by Section 337(a) of the same Act. I understand that taking the oath restores U.S. citizenship as of the date of the oath and is not retroactive to the date of failure to retain.

OATH OF ALLEGIANCE

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or

sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform non-combatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

_____

Signature of Applicant

Subscribed and Sworn to Before Me by the Above Named Applicant

_____

Signature of Passport Issuing Officer

_____

Typed Name of Passport Issuing Officer

_____

Date

(SEAL)